IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.358 OF 2006

G.N.Parkhi & Ors. .. Petitioners

Versus

U.B.Parkhi & Ors. .. Respondents

Mr.R.A.Thorat for petitioners

CORAM : S.C.DHARMADHIKARI, J.

DATE : 31st January 2006.

P.C.

. Heard Mr.Thorat appearing for petitioners. Perused order under challenge. In my view, although, there is much substance in the contention that the delay of four and half years

in question is condoned without a proper explanation, ultimately substantial justice has been done by the lower appellate court while allowing application for substitution of legal heirs of the deceased respondent No.2. Considering the nature of litigation, viz., suit for partition and in the larger interest of justice, application deserves to be granted. However, grievance of learned Counsel appears to be some substance inasmuch as for condonation of delay of 4 1/2 years, the lower appellate court should have imposed heavy cost. Amount of cost stands enhanced to Rs.2500/- to be tendered within two weeks from today. Save and except this modification impugned order remains uninterfered. Petition is dismissed. C.C. expedited.

(S.C.DHARMADHIKARI, J)